

Docket No.: UC 0406 USCIP
Application No.: 10/774,285
Office Action Dated: May 15, 2006

PATENT

REMARKS

Status of the Application

Claims 1-2, 4-10, 12, 14-16, 18, and 20-22 are pending.

Claims 3, 11, 13, 17, and 19 are canceled, Claims 1, 2, 4, 5, 6, 8, 9, and 10 have been amended, and new Claim 22 has been added. No new matter has been added.

Applicant has amended the priority claim to reflect the serial number of its docket UC0406 US NA, and the provisional filing information associated with previously claimed Ser. No. 10/284,728.

All rejections are effectively moot by amendment and need not be addressed. The independent claims are Claims 1, 8, and 22.

Indefiniteness Resolved

Applicants would like to thank the Examiner for interpreting the claims correctly for the purpose of examination, and respectfully submit that the 35 U.S.C. § 112, second paragraph objections have now been addressed by amendment.

Claims Not Anticipated

A number of claims were previously rejected as anticipated by US 6,911,271 to Lamansky et al. ("the Lamansky reference"), US 2003/0124381 to Thompson et al. ("the Thompson reference") or US 6,953,628 to Kamatani et al. ("the Kamatani reference"). These references fail to disclose all limitations of Claims 1 and 8 as amended and new Claim 22. The dependent claims depend from and further limit their respective independent claims, and thus, patentably define over these references as well.

Primary References For Obviousness Rejection Not Prior Art

Certain claims were previously rejected as obvious over U.S. 6,916,554 to Ma et al. ("the Ma reference") or U.S. 7,011,897 to Thompson et al. ("the Thompson 2 reference"), whether alone or in combination with another reference.¹ However, these primary references are not prior art, and thus no rejection can be based on them, as will be explained.

The present application claims priority to US Serial No. 60/347,910 ("the '910 Application") through U.S. Serial No. 10/284,728. The '910 Application has a priority date before either the Ma reference or the Thompson reference. The presently claimed Formula

¹ WO 02/15645 ("the Lamansky 2 reference").

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IV finds support in the disclosure of the '910 Application, and thus is entitled to its priority date of November 7, 2001.


The Ma reference's earliest possible priority date is later than November 7, 2001. Likewise, the Thompson 2 reference's earliest possible priority date is later than November 7, 2001. Thus, neither of these references is prior art under §102, and therefore neither is available for a 35 USC §103 rejection. As the Lamansky 2 reference was cited only as a secondary reference in combination with references that are unavailable as prior art, Applicant need not address it.

Conclusion

Applicant respectfully submits that the indefiniteness, anticipation, and obviousness rejections should not be reapplied to the pending claims. Applicant further respectfully submits that the pending claims are in condition for allowance, and earnestly solicits a notice of allowance for claims 1-2, 4-10, 12, 14-16, 18, and 20-22.

Should the Examiner have questions about the application or the contents of this paper, the Examiner is invited to call the undersigned at the telephone number listed below.

Respectfully submitted,


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